ants went out of office and paid the money over to their successors. The claims against the parish were void, and the court allowed a recovery, holding that the defendants could not shield themselves behind their official position.[6] The cases of a private agent and of a public agent not expressly relieved from liability should be governed by the same principle as to their liability in their individual capacity.[7] In the present case the statute might be interpreted as giving freedom from liability only in actions of contract not enumerated. It would still more clearly afford no protection from individual liability for tortious misdealing with the property of others.

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THE ACT OF AN ADMINISTRATIVE OFFICER AS ORIGINAL CORPORATE ACTION. — "A corporation can do nothing but by attorney."[1] Such a declaration comes readily enough from lawyers who have the conception that a corporation is a metaphysical being created by law, with none of the attributes of personality except the power to hold property and to do business through agents. Under the pressure of modern analysis this fiction tends to yield to more rational ideas, and corporate action is perceived more truly as simple group action.[2] But even though the body of associates is itself looked upon as the corporation rather than as the guardian of a fictitious "legal being," the fact remains that all corporate action which is not performed directly by the representative members of the group must be done through the medium of agents to whom the associates have given authority to act. Thus, under either theory as to the nature of a corporation, administrative officers can exercise only a delegated authority. A new theory of corporateness must be devised to meet a recent decision of the New Jersey Court of Errors and Appeals in which it was held that the execution of an affidavit by the vice-president of a corporation was corporate action *per se* and not *per alium*. *American Soda Fountain Co.* v. *Stolzenbach*, 68 Atl. 1078.[3]

For many centuries before the time of Lord Coke it was the habit of scholars to draw analogies between social institutions and the human body. As the "body in Christ" and the "body politic" were pictured with many fanciful details, so too was that lesser institution, the corporation.[4] At one time this analogy found a place in English law. It was said that a body without a head is incomplete and cannot act.[5] If, therefore, the lands of a monastery which was temporarily without an abbot should be disseised by one who died before a new abbot was appointed, still the new abbot could enter on the heir of the disseisor, for the corporation was headless and there was no person who could make continual claim.[6] It was even held that a bond between the Mayor of Newcastle and the Mayor and Commonalty of

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[6] Townson *v.* Wilson, 1 Camp. 396. The rule of *in pari delicto* was not enforced because the plaintiff was under duress at the time of the contract and payment.

[7] *Cf. In re* Johnson, 15 Ch. Div. 548.

[1] See 3 Comyns's Digest, 405.

[2] See Freund, The Legal Nature of Corporations, 7 *et seq.*; 1 Kyd, Law of Corporations, 15, 16. *Cf.* Liverpool Ins. Co. *v.* Massachusetts, 10 Wall. (U. S.) 566.

[3] Bank of Toronto *v.* McDougall, 15 U. C. C. P. 475.

[4] See 1 Pollock and Maitland, History of English Law, 489 *et seq.*; Gierke, Political Theories of the Middle Ages, 22.

[5] See Carr, Corporations, 154, n. 1.

[6] See Co. Lit. 263 *b*.

Newcastle was void because one cannot be bound to himself.[7] It is easily conceivable that this emphasis upon the headship of the corporate body might have resulted in the conception that the title to the common property was vested in him and that his action should be corporate action *per se.* Few things are better settled in our law than that this is not the nature of the corporate organism, yet it is only on such a theory that the present decision can find support.

When statutes provide that affidavits shall be made by one who has a certain interest, his agent, or attorney, there seems to be no overpowering necessity that such an affidavit, when made by an agent, shall bear internal evidence of the agent's authority.[8] Nevertheless, it has been held that such an agent must in his affidavit allege his authority to act.[9] In general, however, the courts have been satisfied by any words which indicate that the affiant acts as agent for the proper person.[10] Since the implied authority of corporate administrative officers is usually broad enough to cover this situation,[11] it would seem that a mere statement of his official position should fulfil the requirement of the courts.[12] If, however, the affidavit of an agent must comply with certain specific requirements, it would seem that, unless our theory of corporations is to be remoulded along rather astonishing lines, the affidavit of the officer of a corporation must fulfil those conditions.[13]

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# RECENT CASES.

ADMIRALTY — TORTS — TEST OF JURISDICTION. — A steamer broke loose from her moorings and damaged a bridge. The bridge-owners filed a libel against the steamer in admiralty. *Held*, that the court has no jurisdiction of the subject-matter. *Cleveland, etc., R. R. Co.* v. *Cleveland S. S. Co.*, 208 U. S. 316.

This case shows the disinclination of the Supreme Court to disturb its old rule that admiralty jurisdiction of a tort is to be determined by the locality of the consummation of the act. *The Plymouth*, 3 Wall (U. S.) 20. The rule, however, has been broken into to the extent that injury by a ship to a structure erected in aid of navigation, though affixed to the land, is within that jurisdiction. *The Blackheath*, 195 U. S. 361. That case might be distinguished in that the injury was to a beacon, and beacons have from ancient times been subject to admiralty jurisdiction. *Crosse* v. *Diggs*, 1 Sid. 158. But in view of the early tendency to put a liberal construction on the constitutional grant of this jurisdiction to the federal courts, and of the clearly sound policy of that tendency, the rule should be regarded as thus modified. See *The Vengeance*, 3 Dall. (U. S ) 297. The Admiralty Court Act, 1861, gives the English admiralty jurisdiction over "any claim for damage done by any ship." See *The Swift*, [1901] P. 168. The doctrine of continental Europe is equally broad. See

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[7] Y. B., 21 Edw. IV, f 15, f 68, cited in 1 Pollock & Maitland, History of Eng. Law, 492, n. 3.

[8] See Duffie *v.* Black, 1 Pa. St. 388.

[9] Miller *v.* Chicago, etc., Ry. Co., 58 Wis. 310.

[10] Smith *v.* Victorin, 54 Minn. 338; Wetherwax *v.* Paine, 2 Mich. 555.

[11] Sumner *v.* Dalton, 58 N. H. 295. But *cf.* Mahone *v.* Manchester, etc., R. R. Co., 111 Mass. 72.

[12] First Nat'l Bank *v.* Graham, 22 S. W. 1101 (Tex., Ct. App.).

[13] See New Brunswick, etc., Co. *v.* Baldwin, 14 N. J. L. 440; Shaft *v.* Phoenix Life Ins. Co., 67 N. Y. 544.